

From: Rogers, Rick [rogers.rick@epa.gov]
Sent: 4/28/2021 2:05:02 PM
To: Henry, JeannaR [Henry.Jeannar@epa.gov]
Subject: Mountaire: recent court cases and a citizen's complaint

Jeanna,

I'd like to fill you in on something bubbling with Mountaire Poultry. There were a couple of recent court decisions on a citizen's class action law suit and DNREC's law suite recently decided in U.S. District court. I spoke to Nina [Ex. 5 Deliberative Process (DP)]

Ex. 5 Deliberative Process (DP)

Nina expressed concern about having time on any attorney's calendar to do this work. I then suggested [Ex. 5 Deliberative Process (DP)]

[Ex. 5 Deliberative Process (DP)] The case attorney was retired and a new one was never re-assigned since the case was on hold pending DNREC's law suit. Mountaire is Amy's case. [Ex. 5 Deliberative Process (DP)]

Ex. 5 Deliberative Process (DP)

There is a second piece to this. A citizen has raised many complaints about Mountaire to many people at Region 3, DNREC, the DE AG's office and OECA. He sent me a lot of material to review. He is claiming that Mountaire is continuing to dump sludges and liquid waste in areas that he says they do not have a permit for. I'm not going to have time to really dig into this before I go on vacation and this citizen is very impatient about what we are doing about his complaints. He contacted Mark Pollins in OECA this week. Mark set up a call with me tomorrow to discuss.

A lot of the information this person is presenting relates to some sort of dumping in different locations in DE and he seems to think Mountaire is responsible for much of it. He also identified locations that appear to have had material dumped probably not related to Mountaire, but he believes this is illegal dumping. I tried to explain to him that solid waste disposal is the State's jurisdiction. He believes DNREC is either ignoring it or actively allowing it to happen. A major part of his complaints are that the State set the boundaries of the coverage areas for which Mountaire is responsible for groundwater or air contamination. This person believes that the boundaries intentionally cut out areas that Mountaire should be responsible for.

I spoke to Jenn Roushey at DNREC this past Friday. She's had many conversations with this person, but he has not submitted his "evidence" to her or to DNREC's criminal investigations division. I'm guessing he's not doing so because he doesn't trust DNREC.

He sent a spreadsheet with links to sites on Google Maps that he's identified as illegal dumping. Its impossible to tell if any of it is illegal. One site I saw [Ex. 5 Deliberative Process (DP)] and he claims there are no permits associated with the dumping. One site he pointed out [Ex. 5 Deliberative Process (DP)]

Ex. 5 Deliberative Process (DP)

Its an area of woods between some farm fields that also have some chicken houses.

The rest of the information needs to be reviewed and at some point, we need to decide what to do with it all. He called Carol Amend first. Carol pulled me in and she also forwarded her call notes to CID. We may have to do the same thing. He has not presented evidence like lab analyses of samples of soil or dumped material that he's claimed he's found nor has he provided any private well lab analyses indicating wells are contaminated. He's made claims that he and many other residents are experiencing health effects that go away when water treatment units are installed on the private wells. The only avenues I see we could take if there is proof that wells are impacted is via SDWA 1431 or RCRA 7003.

Would this also be something Amy can take on or another staff member? If so, I'll schedule a call. I see one half our tomorrow afternoon where I can set up a call to review what I've received thus far.

Thanks,

Rick

Rick Rogers, Chief
Water Branch (3ED30)
Enforcement and Compliance Assurance Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103
rogers.rick@epa.gov
Office: 215.814.5711
Cell: 215.341.4762